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OFFICE OF PETITIONS

In re Application of :
Andrew Robert Marks, et al. :
Application No. 10/763,498 :
Filed: January 22, 2004 :
Attorney Docket No. 5199-139 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Nonprovisional Application mailed May 3, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Incomplete Reply (NonProvisional) was mailed on August 9, 2004. Accordingly, the above-identified application became abandoned on August 4, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the \$985 extension of time submitted on December 8, 2004 (Certificate of Mailing dated December 6, 2004) was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 02-4270.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy